

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Yan Feng Li,)	Case No. 4:18-cv-02918-DCC
Plaintiff,)	
)	
v.)	ORDER
)	
Kevin K. McAleenan, Acting Secretary)	
of Homeland Security, and William Barr,)	
U.S. Attorney General,)	
)	
Defendants. ¹)	
_____)	

Plaintiff brought this action seeking an order from this Court requiring Defendants to adjudicate his I-485 application. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Kaymani D. West for pre-trial proceedings and a Report and Recommendation (“Report”). On April 30, 2019, one Defendant filed a motion to dismiss for mootness and informed the Court that Plaintiff’s application had been granted. ECF No. 30. The Magistrate Judge issued an order advising Plaintiff of the motion to dismiss and directing Plaintiff to file a response in the event he did not believe the case should be dismissed. ECF No. 32. Plaintiff did not file a response to the motion to dismiss. On June 13, 2019, the Magistrate Judge issued a Report recommending that the motion to dismiss be granted and this action be dismissed with prejudice. ECF No. 37. The

¹ Pursuant to Federal Rule of Civil Procedure 25(d) Kevin K. McAleenan, Acting Secretary of Homeland Security, is substituted as Defendant in lieu of former Secretary Kirstjen Nielsen. William Barr is substituted for Jeff Sessions.

Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences for failing to do so. Neither party has filed objections, and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the recommendation of the Magistrate Judge. Accordingly, the motion to dismiss for mootness [30] is **GRANTED** and this action is dismissed with prejudice.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

July 25, 2019
Spartanburg, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.